

June 2, 1971

CONGRESSIONAL RECORD — Extensions of Remarks

H 5305

The objective of the Act is to induce foreign concerns to engage in sales to the United States.

The 25 Percent Rule

The Antidumping Act provides that in normal situations fair value shall be determined by comparing the ex factory home market price of the merchandise under investigation with the ex factory price at which the merchandise is sold in the United States. If the price in the United States is less than the home market price, then there are "sales at less than fair value" within the meaning of the statute.

The Act also states that in situations where quantity of merchandise sold in the home market is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then third country price should be used as the basis for comparison.

The Antidumping Regulations provide that generally for purposes of determining what constitutes an "inadequate basis of comparison" for fair value purposes, home market sales will be considered to be inadequate if less than 25 percent of the non-U.S. sales of the merchandise are sold in the home market.

The selection of home market or third country price for fair value comparison can easily be crucial to the results of antidumping investigations, for frequently home market price tends to be higher than third country price. This is particularly true where merchandise is sold in a protected home market and, when sold in third countries, is exposed to the vagaries of world competition.

It has been Treasury's experience that cases arise where sales in the home market are adequate as a basis for fair value comparison, even though less than 25 percent of the non-U.S. sales are sold in the home market. From a technical standpoint, the existing regulations provide for this situation, since the 25 percent rule is introduced by the adverb "Generally." Examination of the precedents, however, revealed that the Treasury has not, in recent years at least, made an exception in applying the 25 percent rule.

This left the Treasury with two alternatives. It could have ignored the previous interpretations of the Antidumping Regulations which had, in effect, applied the regulations as if the word "Generally" were not there, or it could propose a change in the Antidumping Regulations to eliminate the 25 percent rule. We chose the latter course. The proposal was published in the Federal Register of April 27, and is currently open for comment by interested persons. Any comments received will be carefully considered before we take final action on this proposal.

A LOOK INTO THE FUTURE

In my judgment, we have only come to the end of the beginning of the rejuvenation process. But, I believe we have made a solid start.

Let me take a final brief moment to touch upon what I see happening in the future. We have taken steps to initiate a fresh examination of the Treasury's antidumping procedures and regulations to see what more can be done. The regulations were substantially revised in mid-1968 after a broad review, with the dual objectives of conforming the Treasury's procedures to the requirements of the International Anti-Dumping Code, and also of having the regulations implemented in clear and precise language the objectives of the Antidumping Act. With almost three additional years of experience under the regulations, as then revised, it is now appropriate to stop and take a new look to see whether additional changes may be appropriate. A Notice of Proposed Rule Making to this effect was published in the Federal Register of April 13, 1971.

Sixty days are being allowed for the submission of comments. I would assume that many persons present here today—if you are not already aware of the Treasury's invitation to submit comments—may wish to do so.

Let me emphasize that the Treasury Department continues, as always, to adhere to its policy of equitable administration of the Antidumping Act. With the increased personnel assigned to this field and modernized procedures and policies, we shall speed up antidumping investigations, thereby making administration of the law more effective—all this without sacrificing equity.

Let me also emphasize that the Treasury Department and the Administration are strongly opposed to having the Antidumping Act transformed into an instrument of protectionism. On the other hand, we are equally strongly opposed to allowing foreign firms to injure U.S. industry by unfair price discrimination. It is with the latter objective in mind that the Treasury Department introduced the changes in the administration of the Antidumping law, which I have discussed with you today. To the extent that we succeed in our objective, the Treasury's rejuvenation of the Antidumping Act will become an increasingly important influence in favor of a freer international trade policy.

In conclusion, I would like to repeat a statement made by Secretary Connally on May 17 before the Subcommittee on International Trade of the Senate Committee on Finance:

"The efforts to foster increased competitiveness in our economy must be actively pursued in the context of fair and liberal trading arrangements."

RAMPARTS MAGAZINE MISREPRESENTS ROLE OF CENTRAL INTELLIGENCE AGENCY IN FIGHTING AGAINST IMPORTATION OF DANGEROUS DRUGS

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 2, 1971

Mr. GUBSER. Mr. Speaker, recently Ramparts magazine published an article which, like so many other articles which appear in new left publications, attempted to discredit established agencies of the Government, including the Central Intelligence Agency. Unfortunately, the Stanford Daily, the newspaper published by students at Stanford University, saw fit to lend credibility to this article by reprinting it.

A tearsheet from the Stanford Daily was sent to me by a constituent and I submitted it to the Bureau of Narcotics and Dangerous Drugs with a request for comment. Under date of May 27 I received a reply from Mr. John E. Ingersoll, director of the Bureau of Narcotics and Dangerous Drugs. His letter should be brought to the attention of all responsible Members of Congress and the press since it certainly contradicts the implications contained in the Ramparts magazine article. Mr. Ingersoll's response follows:

HON. CHARLES S. GUBSER
U.S. House of Representatives
Washington, D.C.

DEAR CONGRESSMAN GUBSER: This is in response to your letter of May 21, 1971, which enclosed a tearsheet from the "Stanford Daily" (a publication of Stanford University)

sity) of the article entitled, "The New Opium War," as reprinted from "Ramparts Magazine."

Charges made in the article appear to be a part of a continuing effort to discredit agencies of the U.S. Government, such as the U.S. Military, the FBI, the CIA, and the Department of State, all of which are, in point of fact, working actively with the Bureau of Narcotics and Dangerous Drugs (BNDD) in our worldwide effort to curtail international drug traffic.

Actually, CIA has for sometime been this Bureau's strongest partner in identifying foreign sources and routes of illegal trade in narcotics. Their help has included both direct support in intelligence collection, as well as in intelligence analysis and production. Liaison between our two agencies is close and constant in matters of mutual interest. Much of the progress we are now making in identifying overseas narcotics traffic can, in fact, be attributed to CIA cooperation.

In Burma, Laos, and Thailand, opium is produced by tribal peoples, some of whom lead a marginal existence beyond the political reach of their national governments. Since the 1950's, this Southeast Asian area has become a massive producer of illicit opium and is the source of 500 to 700 metric tons annually, which is about half of the world's illegal supply. Up to now, however, less than ten percent of the heroin entering the United States comes from Far Eastern production.

The dimensions of the drug problem and the absence of any strong political base for control purposes has been a dilemma for United Nations opium control bodies operating in Southeast Asia for many years. Drug traffic, use, and addiction appears to have become accepted as a fact of life in this area and, on the whole, public attitudes are not conducive to change.

The U.S. Government has been concerned that Southeast Asia could become the major source of illicit narcotics for U.S. addicts after the Turkish production is brought under control. The Bureau of Narcotics and Dangerous Drugs, with the help of CIA, DOD, and the Department of State, has been working to define and characterize the problem so that suitable programs to suppress the illicit traffic and eliminate illegal opium production, such as the proposed United Nations pilot project in Thailand, can be implemented.

It is probable that opium production in Southeast Asia will be brought under effective control only with further political development in these countries. Nevertheless, in consideration of U.S. Military personnel in the area, as well as the possibility that opium from this area may become a source for domestic consumption, concerned U.S. Agencies, including CIA, Bureau of Customs, DoD, and State, are cooperating with BNDD to work out programs to meet the immediate problem as well as provide longer term solutions.

Since the subject matter of your letter concerns CIA, I have taken the liberty of furnishing a copy along with my reply to Director Richard Helms.

Sincerely,

JOHN E. INGERSOLL,

Director.

As an enclosure to his letter, Mr. Ingersoll included a paper entitled "Recent Trends in the Illicit Narcotics Market in Southeast Asia." This should also be of interest to every person who is concerned about this problem and I therefore include the text herewith:

RECENT TRENDS IN THE ILICIT NARCOTICS MARKET IN SOUTHEAST ASIA

1. The reported increasing incidence of heroin addiction among U.S. servicemen in Vietnam and recent intelligence indicating that heroin traffic between Southeast Asia

MORI/CDF

and the United States may also be increasing suggest that Southeast Asia is growing in importance as a producer of heroin. While this phenomenon in part reflects improvement in information available in recent months to the U.S. Government, there are also good indications that production of illicit narcotics in Southeast Asia has indeed risen in 1971.

BACKGROUND

2. The Burma, Laos, Thailand border area, known also as the "Golden Triangle," is considered one of the world's largest opium producing regions. This region normally accounts for about 700 tons of opium annually or about one-half of the world's total illicit output. A substantial proportion is consumed within the region. Burma, by far the largest producer of opium in this region, accounts for about 400 tons annually.

BURMA

3. Production in Burma is concentrated in the Eastern and Northern parts of Shan State and in the Southwestern part of Kachin State. Poppy fields cover the rugged slopes in Eastern Shan State around Keng Tung and in Northern Shan State from Lashio east and north to the China border. The latter territory, comprised of the former Wa and Kokang feudal states, is now a center of insurgency directed against the Burmese government, with much of the area under insurgent control.

4. The growing season varies with the altitude, but the planting season generally falls during the months of August and September, with the harvest some seven months later during February and March. At harvest time the women of the hill tribes slit the poppies and collect the raw opium by hand. The opium plants themselves are ground into a compound for smoking. In Northeast Burma, the raw opium is packed by the growers and traded to itinerant Chinese merchants who transport it to major collection points, particularly around Lashio and Keng Tung. Agents of the major entrepreneurs circulate through the hill country shortly after harvest time arranging for payment and pickup. Payment is often in the form of weapons and ammunition, although gold and silver rupees are also used.

5. The opium harvested in Shan, Wa, and Kokang areas is picked up by caravans that are put together by the major insurgent leaders in these areas. The caravans, which can include up to 600 horses and donkeys and 300 to 400 men, take the opium on the southeasterly journey to the processing plants that lie along the Mekong River in the Tachilek (Burma)-Mae Sai (Thailand)-Ban Houei Sai (Laos) area. Caravans carrying in excess of 16 metric tons have been reported.

THAILAND

6. Opium-growing areas in northern Thailand are located in the upland tracts occupied by various tribal groups. The provinces of Chiang Mai, Chiang Rai, and Nan, which have the largest concentration of Meos, produce most Thai opium. Illicit opium production in Thailand is estimated at 200 tons.

LAOS

7. Another, less productive, opium growing area is along the 2,500 to 4,500 foot high mountainsides of Northwest Laos. The opium cultivated by the Meo in this area is of a relatively lower grade and thus less suitable for refinement into morphine base or heroin. In these areas where the tribesmen have been encouraged to grow corn, the poppies are planted among the corn. When the corn is cut, the poppies continue to grow until they too can be harvested.

8. Major producing areas include Phong Saly Province in the North, Houa Phan (Samneua) Province in the Northeast, and the Plaine de Jarres area of Xiang Khoang Province in the East-central part of the

country. However, large areas of production in Phong Saly, Houa Phan, and Xiang Khoang have fallen under the control of the Pathet Lao and North Vietnamese.

9. The trade in Northwest Laos is less well structured and organized for significant commercial exploitation. There are no advance purchasing agents or pick-up caravans. The harvested opium and the poppy plants which are ground up for smoking are transported to nearby village markets by the growers themselves. In highland market places the raw opium and its by-product are used openly as currency. Ethnic Chinese merchants are the traditional purchasers of the opium products throughout Laos. The products they collect are transported to population centers and also to processing plants along the Mekong River by travelers, particularly government soldiers, who have the most mobility and access to air travel in the area, and refugees. Opium produced in the Communist-controlled areas also find its way into the regular marketing channels.

DISTRIBUTION AND REFINERIES

10. The KMT irregular "armies" and the Burmese Self Defense Forces (KKY) are the most important trafficking syndicates in Northern Southeast Asia. The KMT irregulars—formerly the remnants of the Chinese Nationalist forces which retreated across the Chinese border in 1949—now composed largely of recruits from the local population, have a combined strength of between 4,000 and 6,000 well-armed men. The largest force, with an estimated strength of 1,400 to 1,900, is the Fifth Army. The second largest with a troop strength of between 1,200 and 1,700 is the Third Army. The headquarters of both armies are located in a remote part of Northern Thailand between Pang and Mae Sai. It is estimated that these two KMT irregular forces control more than 80 percent of the opium traffic from the Shan State.

11. The KKY have been major competitors of the KMT irregulars in the opium trade. The KKY are comprised of former Shan State insurgents and bandits who have allied themselves with the Burmese government against both the KMT and Chinese Communist-backed insurgents. In return the government of Burma allowed them to pursue their opium trafficking activities.

12. The Shan States Army, an insurgent group, is also heavily involved in the opium business. It maintains several camps in Northern Thailand where opium is marketed for weapons and military supplies.

13. About 140 tons of raw opium is normally transported annually out of Northeast Burma to foreign markets. Most of this opium is stored or processed in the Mekong River tri-border area before transiting Thailand and Laos. Tachilek, Burma is probably the most important transshipment point in the border area. In 1970, out of a total of 123 tons reportedly shipped out of Northeast Burma, 45 tons was received in the Tachilek area. In the first two months of 1971, 58 out of a total of 87 tons had Tachilek as its destination. Other important transshipment points appear to be located in the vicinity of Ban Houei Sai, Laos, and Mae Salong, Thailand.

14. There appear to be at least 21 opium refineries of various sizes and capacities located in the tri-border area, of which about 7 are believed to be able to process to the heroin stage. The most important are located in the areas around Tachilek, Burma, Ban Houei Sai and Nam Keung, Laos, and Mae Salong, Thailand. The best known, if not largest of these refineries is the one at Ban Houei Tap, Laos, near Ban Houei Sai which is believed capable of processing some 100 kilos of raw opium per day. The 14 refineries in the Tachilek area apparently process the largest volume of raw opium in the region. In 1970, about 30 tons was converted by the Tachilek refineries into refined opium, morphine base, and heroin.

15. The typical refinery is on a small tributary of the Mekong River in an isolated area with a military defense perimeter guarding all ground approaches. Most of these refineries operate under the protection of the various military organizations in the region, or are owned or managed by the leaders of these military groups. The KKY units protect and operate most of the refineries in Burma. Leaders of these groups also hold an ownership interest in many of these facilities. In Thailand, the refineries appear to be operated by units of the KMT irregulars, whereas in Laos, most of the refineries operate under the protection of elements of the Royal Laotian Armed Forces (FAR). While the management and ownership of the Laotian refineries appear to be primarily in the hands of a consortium of Chinese, some reports suggest that a senior FAR officer may hold an ownership interest in a few of these facilities.

16. Most of the narcotics buyers in the tri-border area are ethnic Chinese. While many of these buyers pool their purchases, no large syndicate appears to be involved. The opium, morphine base, and heroin purchased in this area eventually finds its way into Bangkok, Vientiane, and Luang Prabang, where additional processing may take place before delivery to Saigon, Hong Kong, and other international markets.

17. Much of the opium and its derivatives transiting Thailand from Burma moves out of such Northern Thai towns as Chiang Rai, Chiang Mai, Lampang, or Tak by various modes of ground and water transport. These narcotics, along with those produced in Thailand, are smuggled into Bangkok for further refinement into morphine or heroin. A considerable quantity of the raw opium and morphine base is sent by fishing trawler from Bangkok to Hong Kong during a period from about 1 January to 1 May. During this period, approximately one fishing trawler a day—carrying one to three tons of opium and/or quantities of morphine base—leaves Bangkok for Hong Kong. The boats proceed to the vicinity of the Chinese Communist-controlled Lema Islands—15 miles south of Hong Kong—where the goods are loaded into Hong Kong junks.

18. Opium and its derivatives which move through Laos are transferred from the Mekong River refineries by river craft and FAR vehicles to Ban Houei Sai, further downstream on the Mekong in Laos, from where it is transported on Royal Laotian Air Force (RLAF) aircraft to Luang Prabang or Vientiane. From Vientiane narcotics are usually sent via RLAF aircraft, as well as Air Laos, to other cities in Laos such as Savannakhet or Pakse or to international markets. A considerable portion of the Laotian produced narcotics is smuggled into Saigon on military and commercial air flights, particularly on Royal Air Laos and Air Vietnam. Although collusion between crew members and air line agents on one hand and individual narcotics smugglers on the other has been reported, poor handling of commercial cargo and the laxity of Lao customs control in Vientiane and other surreptitious loading of narcotics aboard commercial flights.

RECENT CHANGES IN THE AREA

19. There are tentative indications that larger quantities of raw opium may now be moving into the tri-border area for refining and that larger quantities of this raw opium are now being refined into morphine base and heroin in this area. As suggested in paragraph 13 above, data on the first two months of 1971 indicate that the Tachilek transshipment and refining area may be receiving and processing sizable larger amounts of raw opium than was the case in 1970. As for changes in the type of refined narcotics produced, the processing plants at Mae Hui in Thailand and Houei Tap in Laos now appear

to be converting most of their opium into No. 4 or 66 percent pure white heroin. Previously, these refineries tended to produce refined opium, morphine base and No. 3 smoking heroin. An increased demand for No. 4 heroin also appears to be reflected in the steady rise in its price. For example, the mid-April 1971 price in the Tachilek area for a kilo of No. 4 heroin was reported to be U.S. \$1,780 as compared to U.S. \$1,240 in September 1970. Some of this increase may also reflect a tight supply situation in the area because of a shortage of chemicals used in the processing of heroin. Rising prices for opium and its derivatives can also be seen in other areas of Southeast Asia.

20. The establishment of new refineries since 1969 in the tri-border area, many with a capability for producing 96 percent pure heroin, appears to be due to the sudden increase in demand by a large and relatively affluent market in South Vietnam. A recent report pertaining to the production of morphine base in the Northern Shan States would indicate a possible trend toward vertical integrations—producing areas establishing their own refineries—in the production of narcotics. Such a development would significantly facilitate transportation and distribution of refined narcotics to the market places.

HOW FAIR THE FARE?

HON. BENJAMIN S. ROSENTHAL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 2, 1971

Mr. ROSENTHAL. Mr. Speaker, representatives of U.S. transatlantic airlines are going to Montreal later this month to negotiate air fares—actually the word should be to “fix” air fares, for the competing carriers meet in private to decide the rates they all will charge.

The prices are fixed by the International Air Transport Association. Frances Cerra, *Newsday's* consumer writer, has aptly described IATA as “a cartel which operates without the participation of consumers and above the laws of the United States and any international organization.”

The position of the American carriers is thrashed out by the airlines and the Civil Aeronautics Board in secret sessions. The people who must pay the fares will be given no opportunity to participate or express their views; after all, they have little choice: only one or two transatlantic airlines land in the United States that are not IATA members.

The Aviation Consumer Action Project has written to CAB Chairman Secor D. Browne protesting the lack of public participation in these proceedings. That letter said, in part:

Such practices on the part of a federal regulatory agency are hostile to elementary notions of due process and deprive citizens of basic participatory rights assured in the First Amendment.

I would like at this time to join them in urging an end to these secret meetings with the airlines in the course of fare negotiations.

So that all my colleagues may be aware of this situation, I am inserting in the Record at this point the Aviation Consumer Action Project's letter to CAB Chairman Browne, and Miss Cerra's very

fine article on the setting of international air fares:

AVIATION CONSUMER ACTION PROJECT,

Washington, D.C., May 25, 1971.

Hon. SECOR D. BROWNE,
Chairman,
Civil Aeronautics Board,
Washington, D.C.

DEAR CHAIRMAN BROWNE: The traffic conference of the International Air Transport Association (IATA) is scheduled to meet at Montreal on June 28, 1971, to negotiate transatlantic air fares. The Presidents of the transatlantic IATA carriers will meet in New York on May 27, 1971, to discuss the Montreal fares conference. And the Board, in accordance with its customary practice, will probably meet with the representatives of the U.S. carriers and discuss with them the various views and positions which they will adopt in the IATA negotiations at Montreal. All these meetings will, as usual, be held in secret. Members of the public and farepayers will not be given an opportunity to present their views and opinions in any of those meetings. The Aviation Consumer Action Project (ACAP), is writing to express its deep resentment and disapproval of the restrictive price-fixing practices of IATA, and the Board's complicity in those practices.

ACAP is a non-profit consumer organization which has been founded for the purpose of providing an independent voice for the advocacy of consumer and environmental interests in matters and proceedings before the Board and other regulatory agencies.

Whatever may be the underlying reasons for the Board's approval of U.S. carriers' participation in IATA meetings, ACAP is of the opinion that there cannot be any justification for the Board's secret meeting with airline executives on the eve of the IATA conference. The issues raised by such a meeting are rendered all the more serious when the Board, on the exclusive basis of the airlines' *in camera* presentations, formulates policies and opinions with respect to the appropriate and permissible fare levels for various international routes and traffic regions. Such policies and opinions are communicated to the carriers by the Board in the form of “directives.” For all practical purposes these directives are informal decisions of the Board which tentatively set forth the fares that the Board considers reasonable and legal.

The Federal Aviation Act and the regulatory scheme outlined therein do not permit the Board to make *ex parte* decisions after hearing the airlines in closed sessions. Such practices on the part of a federal regulatory agency are hostile to elementary notions of due process and deprive citizens of basic participatory rights assured in the First Amendment. They are wholly inconsistent with the procedural principles embodied in the Administrative Procedure Act.

ACAP urges the Board not to engage in secret or private audiences with the airlines concerning fares or other matters to be negotiated in the IATA conference, except in open proceedings of record, in which all interested and affected parties would have the right to attend and lawfully participate. We urge the Board to abstain from convening any secret meeting with the airlines whether prior to or in the course of IATA fare negotiations.

Sincerely,

K. G. J. PILLAI,
REUBEN B. ROBERTSON III.

INTERNATIONAL FARES: ARE THEY SET FAIRLY? (By Frances Cerra)

Unless you really dig bazouki music or care about the color scheme of a plane's interior, it doesn't pay to shop around for the cheapest flight to Athens. Whatever air-

line you choose, the flight will cost you \$535 round trip for a 17- to 28-day stay.

The same is true for Rome or Cairo or any other international destination except Luxembourg. (Icelandic, a maverick airline, flies there.) The prices are fixed by the International Air Transport Association, a cartel which operates without the participation of consumers and above the laws of the U.S. and any international organization. This year the price of international travel increased from eight to 12 per cent as a result of IATA agreements. Next month, the process of fixing the 1972 prices will begin, but a new element may be added: A new consumer group backed by Ralph Nader promises to challenge the IATA system in the courts.

Since its formation in 1929, IATA has been involved in the complicated maneuvers of international politics. Many governments in the world subsidize their own airlines and therefore want to be protected from true competition on air fares. These governments therefore adopt the IATA agreements as law and threaten to prosecute any foreign airline which tries to charge lower fares. Great Britain, which subsidizes BOAC, actually made such a threat against the U.S. airlines in 1963 when the Civil Aeronautics Board opposed a five per cent increase in air fares. Faced with this threat and an international incident, the CAB backed down.

Foreign governments also enforce the IATA agreements by another simple measure: They refuse to allow an airline that is not a member of the cartel to land in their countries. That is why Icelandic Airlines, the only non-member of IATA, can land only in Luxembourg. No other European country will give it landing rights.

A spokesman for Pan American, whose president, Najeb E. Halaby, is on the executive committee of IATA, said that he would not call IATA agreements “price fixing,” but “an area of cooperation.”

“If there were not an area of cooperation,” he said, “many airlines would not be able to exist. The U.S. airlines in particular would have a hard time because they are not subsidized by the government. IATA makes for fair play, and without it there would be chaos.”

Herb Aswall, the acting chief of the IATA rates and fares section of the Civil Aeronautics Board, which sets domestic air fare rates, echoed Pan American's concern. “With 20 carriers flying the Atlantic alone,” he said, “to not have IATA would result in chaos because we would have to deal with each individual foreign government to establish fares. And because the CAB has no authority to regulate international fares, we might have to accept an uneconomic fare, which would drive an American carrier out of business.”

Dr. K. G. J. Pillai, author of a book on IATA called “Air Net,” and head of the new Aviation Consumer Action Project, calls such arguments illogical. “The private airlines are now at a disadvantage in IATA because they are negotiating as private concerns with government-owned airlines. That is exactly why we say IATA should not exist. If there were competition in air fares I personally don't think it would be very destructive because the efficient airlines would survive. But the alternative is for the U.S. government to directly represent the private airlines in these conferences.”

Pillai said that such negotiations would not be unusual for the government which now makes tariff and excise duty agreements on thousands of products like oil and textiles, and even airmail rates. “I can't understand why air fares should be different,” he said. Pillai said that if the government was involved in fixing the international air fares, the consumer would have a better chance of influencing the negotiations. Right now, he charges, the consumer has no chance of influencing IATA.